


Message

From: Ozone Implementation Team [no-reply@sharepointonline.com]
Sent: 10/5/2017 7:31:26 PM
To: Svingen, Eric [Svingen.Eric@epa.gov]
Subject: Ozone in the News - Groups threaten suit over EPA delay...

 Groups threaten suit over EPA delay... has been added



Mackintosh, David

10/5/2017 3:28 PM

Title: Groups threaten suit over EPA delay of ozone designations

Body: **Groups threaten suit over EPA delay of ozone designations**

October 04, 2017

A coalition of more than 10 environmental and public health groups is threatening to sue EPA for failing to meet an Oct. 1 Clean Air Act deadline to designate areas' attainment with the 2015 ozone standard, saying litigation might be necessary to force issuance of the designations.

The groups in [an Oct. 3 notice of intent](#) (NOI) tell EPA they will file a civil suit 60 days from the date of their NOI to force EPA to issue the designations unless it does so before that time.

"EPA has a legal and moral duty to protect Americans from the dangers of smog. Ignoring the legal deadlines set by the Clean Air Act is unacceptable," said Peter Zalzal, lead attorney with the Environmental Defense Fund -- one of the environmental groups that signed the NOI. "Moving forward with these protections will provide life-saving benefits to our families and communities, and make sure we all have cleaner, safer air to breathe."

The threatened suit could pose a test for EPA Administrator Scott Pruitt who had pledged to meet the deadlines and avoid litigation. "Under previous Administrations, EPA would often fail to meet designation deadlines, and then wait to be sued by activist groups and others, agreeing in a settlement to set schedules for designation," Pruitt said in an Aug. 3 statement. "We do not believe in regulation through litigation, and we take deadlines seriously."

But the groups argue in their NOI that the agency is violating section 107(d)(1)(A) of the air law that requires EPA to issue attainment and nonattainment designations within no more than two years after finalization of a new national ambient air quality standard (NAAQS). The Obama EPA on Oct. 1, 2015, tightened the ozone standard from 75 parts per billion (ppb) down to 70 ppb, making Oct. 1 this year the two-year mark for issuing the findings.

An agency spokeswoman told *Inside EPA* on Oct. 2 that there is "[no further information](#)" on when EPA might issue the designations, which states need to start their NAAQS compliance planning.

Issuance of a designation as either in attainment or in one of the several rankings of nonattainment -- such as "moderate" or "severe" -- guides states on the extent of the ozone emissions-reduction measures they will have to include in their state implementation plans they write for meeting the standard.

State air regulators at a recent conference said that the lack of final designations has thrown a "wrench" into their process for crafting plans to comply with the 2015 ozone standard.

EPA Administrator Scott Pruitt – who in his prior role as Oklahoma's GOP attorney general opposed the 2015 rule tightening the NAAQS -- this summer tried to postpone the designations until Oct. 1, 2018, citing a lack of data to make the findings. Environmentalists and several Democratic states then sued, and the agency soon reversed the decision.

But the agency's designations website shows no updates since Aug. 2 when EPA announced the withdrawal of the delay.

Environmentalists and public health groups in their NOI now say that unless the agency releases the designations within 60 days, they will sue to force issuance of the findings.

The groups that signed the NOI are: EDF, Earthjustice, the American Lung Association, the American Public Health Association, the American Thoracic Society, the Appalachian Mountain Club, the Environmental Law & Policy Center, the National Parks Conservation Association, the Natural Resources Defense Council, the Sierra Club and West Harlem Environmental Action.

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